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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,321	03/24/2000	Adam J. Grove	10317-004-999	2426

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EXAMINER	
NGUYEN, QUANG N	

ART UNIT	PAPER NUMBER
2141	8

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/534,321	Applicant(s) GROVE ET AL.	
	Examiner Quang N. Nguyen	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 March 2000 and 24 May 2000* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 March 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Detail Action

1. Claims 1-66 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 1-2, 9, 13-33, 36-37, 42, 47-63 and 66 are rejected under 35 U.S.C. 102(e) as being anticipated by Gelman et al. (US 6,415,329), herein after referred as Gelman.

4. As to claim 1, Gelman teaches a method for communicating an Internet message between a source and a destination over the Internet, comprising:

selecting a node of a first type (source gateway 12 of Fig. 1);

selecting a node of a second type (destination gateway 16 of Fig. 1);

communicating an Internet message from the source (source node 10) to the node of the first type (source gateway 12) using a first protocol (TCP connection 20);

communicating the Internet message from the node of the first type (source gateway 12) to the node of the second type (destination gateway 16) using a second protocol (WLP connection 22); and

communicating the Internet message from the node of the second type (destination gateway 16) to the destination (destination node 18) using a third protocol (TCP connection 24) (Gelman, Fig. 1, C2: L34-57 and C7: L12-60).

5. Claims 2, 9, 15-16 are corresponding method claims of claim 1; therefore, they are rejected under the same rationale.

6. Claims 13 and 14 are corresponding method claims of claim 1 and 9 with reverse direction; therefore, they are rejected under the same rationale (Gelman, C7: L23-26).

7. As to claims 17-19, Gelman teaches the method of claims 1-2 and 9, wherein the communicating step (c) comprises redirecting the Internet message from the source to the node of the first type (Gelman, C16: L34-52).

8. As to claims 20-22 and 25-26, Gelman teaches the method of claims 1-2, 9 and 15-16, wherein the first protocol is a standard protocol (TCP), the second protocol is a high-performance protocol (WLP), and the third protocol is a standard protocol (TCP).

9. As to claims 23-24, Gelman teaches the method of claims 13-14, wherein the fourth protocol is a standard protocol (TCP), the fifth protocol is a high-performance protocol (WLP), and the sixth protocol is a standard protocol (TCP).

10. As to claims 27-33, Gelman teaches the method of claims 20-26, wherein the Internet message is a World Wide Web message (HTTP transfer test).

11. Claims 36-37 and 42 are corresponding system claims of claims 1-2 and 9; therefore, they are rejected under the same rationale.

12. Claims 47-63 are corresponding system claims of claims 16-33; therefore, they are rejected under the same rationale.

13. Claim 66 is rejected under 35 U.S.C. 102(e) as being anticipated by Lowery et al. (US 6,415,335), herein after referred as Lowery.

14. As to claim 66, Lowery teaches a method for managing dynamic web page generation requests, comprising:

separating messages into a template (dyna-tags) and a customization (dynatext/dynablock) portion;

communicating the template to the destination;

communicating the customization portion to the destination;

wherein the template includes information to reconstruct the message from the customization part (Lowery, C6: L32-48).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. Claims 3-8, 10-12, 34-35, 38-41, 43-46 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelman (US 6,415,329), in view of Rochberger et al. (US 6,483,808), herein after referred as Rochberger.

17. As to claims 3 and 5-8 Gelman teaches the method of claim 1, but does not explicitly teach the step of determining a measure of communications performance for selecting a combination of the node of the first type and the node of the second type to

optimize the measure of communications performance between the source and the destination.

In the related art, Rochberger teaches a method of determining the optimum route from a source to a destination node utilizing fuzzy logic processing to select the best or optimum route from among a plurality of possible optional routes using an optimization technique that examines one or more metrics, attributes and/or parameters associated with each optional route (Rochberger, C7: L10-28, C9: L37-67 and C10: L1-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gelman to include the step of determining the optimum route from a source to a destination node as suggested by Rochberger because it would allow the system to compute and select the optimum routing path having a maximum link quality between the source and the destination from among possible routes to improve efficiency of network communications.

18. Claim 4 is a corresponding method claim of claim 3; therefore, it is rejected under the same rationale.

19. Claims 10-12 are corresponding method claims of claims 3 and 5-8; therefore, they are rejected under the same rationale.

20. Claims 38-41 and 43-44 are corresponding system claims of claims 3-7; therefore, they are rejected under the same rationale.

21. Claims 45-46 are corresponding system claims of claims 13-14; therefore, they are rejected under the same rationale.

22. Claims 34-35 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao (US 6,018,840), in view of Rochberger.

23. As to claim 34, Zhao teaches a method for providing web content to a source from a destination (Fig. 1) comprising:

communicating an Internet message requesting web content from a source (user 22) to a node (local content server 14);

if the node includes the requested web content in its cache, communicating the web content from the node to the source; and

if the node does not include the requested web content in its cache, communicating the Internet message requesting web content from the node (local content server 14) to the destination (source content server 10) (Zhao, Abstract).

However, Zhao does not explicitly teach the node is selected so as to optimize a measure of communications performance for a sub-link between the node and the destination.

In the related art, Rochberger teaches a method of determining the optimum route (data path) from a source to a destination node utilizing fuzzy logic processing to select the best or optimum route from among a plurality of possible optional routes using an optimization technique that examines one or more metrics, attributes and/or parameters associated with each optional route (Rochberger, C7: L10-28, C9: L37-67 and C10: L1-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Zhao to include the step of selecting the node so as to optimize a measure of communications from a source to a destination node as suggested by Rochberger because it would allow the system to compute and select the optimum routing path between the source and the destination from among possible routes to improve efficiency of data file distribution to remote users over the communication networks.

24. As to claim 35, Zhao-Rochberger teaches the method of claim 34, wherein using fuzzy logic to optimize the performance of a routing algorithm when the routing decision is based on multiple metrics (i.e., the network distance between the node and server), attributes (i.e., the probability of the web content is in the cache of the node) and/or parameters (Rochberger, C9: L37-58).

25. Claims 64-65 are corresponding claims of claims 34-35; therefore, they are rejected under the same rationale.

26. Further references of interest are cited on Form PTO-892, which is an attachment to this office action.

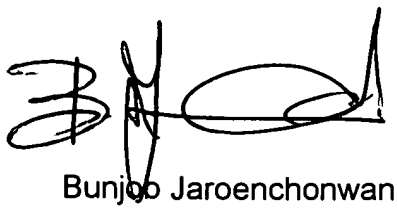
27. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Bunjob Jaroenchonwanit, can be reached at (703) 305-9673. The fax phone numbers for the organization is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Quang N. Nguyen



Bunjob Jaroenchonwanit